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### REMARKS

The present invention addresses an improvement in a relatively crowded technological field by providing an easy to use token purchasing device that can accept both banknotes and coins, while providing a display with readily perceived information to the user to enable the user to make choices.

Additionally, the present invention incorporates a computing processor to implement a program disclosed in the flowchart of Figures 6A-6C, to thereby encourage users, for example in a gambling casino, to take advantage of special promotional dates and the number of tokens that can be purchased, to thereby encourage use of the gambling machines in traditionally low-use time periods.

The present invention can be provided in a stand-alone kiosk format with a chassis housing the components and a chassis door providing operation controls for the user and mounting, for example, a display and token dispensing unit in the chassis door. The display has a capacity of providing both messages and varying the choices available to the user, for example, such as a touch screen that can be located on a front face panel of the display unit, as shown in Figure 4.

The computing processor can control the operations of the token purchasing device and other features such as a speaker, for permitting the emission of audible announcements as to the availability of special purchasing modes to the user. Thus, the present invention provides an improvement not heretofore available to casinos.

"Thus when differences that may appear technologically minor nonetheless have a practical impact, particularly in a crowded field, the decision-maker must consider the obviousness of the new structure in this light."

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*Continental Can Co. USA Inc. v. Monsanto Co.*, 20 U.S.P.Q. 2d. 1746,  
1752 (Fed. Cir. 1991).

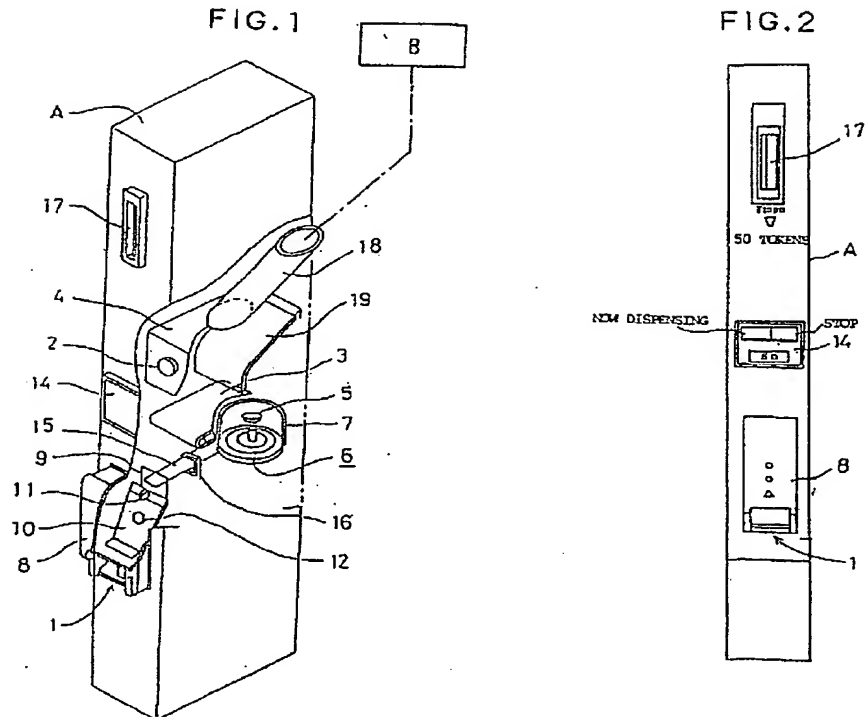
The Office Action indicated that the subject matter of Claim 6 was allowed and accordingly, it is believed that Claim 3 amended to incorporate the allowable subject matter of Claim 6, along with the dependent Claims 4-11, are allowable.

The Office Action contended that Claims 1-5, 7, 8 and 10-12 were rejected under 35 U.S.C. §103(a) over *Takemoto et al.* (U.S. Patent No. 5,366,110) when taken in view of *Moore* (U.S. Patent No. 3,165,185).

The *Takemoto et al.* reference is relevant in the sense that it provides purportedly an improvement in a conventional game token dispenser. The improvement resides, however, in taking a conventional token hopper and dividing it into two separate stages of a preliminary hopper and a dispensing hopper with appropriate sensors for monitoring the movement of the tokens dispensed.

The features of the *Takemoto et al.* reference can be seen in the following Figures:

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Thus, a preliminary hopper 4, with a capacity of about 300 tokens, is equipped with an approach sensor 2. The coins can be released to a conveyor belt that then moves the coins pass a sensor 5 to measure the level of the coins in the actual dispensing hopper 7. The dispensing hopper can hold 150 to 200 tokens. A discharging member such as a rotary drum 6, dispenses the coins to pass another approach sensor 12 to the user. The approach sensor 12 can ensure that there is not an overflow of coins in the dispensing tray.

Thus, as described in Column 5, Lines 8-22, and Lines 36-45, the teachings of the *Takemoto et al.* reference, to a person of ordinary skill in this field, can be summarized as follows:

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#### Usefulness of the Invention

According to this invention, as tokens are supplied to the preliminary hopper 4 from the token reservoir, the preliminary hopper 4 stores them and, at the same time, detects the level of tokens. The conveying means 3 then conveys the tokens to the dispensing hopper 7. In the dispensing hopper 7, in which the level of the tokens is detected, a predetermined number of tokens are dispensed one by one to the token receiving port 1 by the discharging means 6. It is therefore possible to dispense the number of tokens equivalent to the amount of the inserted money reliably, without troubling an arcade keeper to clear any clogging as after occurs in the conventional dispenser.

\* \* \*

Furthermore, according to this invention, since with the dispensed tokens remaining in the receiving port, discrimination is made as to whether or not it is possible to carry out the next dispensing operation, it is possible to prevent the tokens from over flowing out of the receiving port, which would be a cause of mishaps. Also since continuous dispensing is possible up to two times, clientele can purchase tokens in a trouble free manner.

The Office Action acknowledged that the *Takemoto et al.* reference was not concerned with any clock arrangement and, therefore, relied upon the *Moore* reference.

The *Moore* patent taught a vending machine with a manually operated handle 17 to close an electrical contact for initiating the operation. A cam could operate individual solenoids 32, 33 and 34 to appropriately gate three separate coin slots 18, so that the receipt of a specific sum of change, e.g. a nickel, a dime or a quarter, could only be entered into the machine based on a particular time of day. Thus, the vertical height and width of the individual slots were designed to only receive either a nickel, a dime or a quarter to permit a dispensing of a beverage, as shown in Figure 1.

It is appreciated that the Examiner is citing the *Moore* reference for the concept of varying the amount or denomination of the coin that can be accepted at various times in the day, purportedly associated with a break or lunch hours in a factory environment. This is

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accomplished by physically opening the gate of only one slot so that it will only accept one type of coin for operating the machine.

As should be appreciated, neither the *Takemoto et al.* nor the *Moore* reference recognizes, nor offers a solution to the problems addressed by the present invention.

“When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.”

*Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143 (Fed. Cir. 1985).

The *Moore* reference basically teaches a limitation on the type of coin that can be entered into the vending machine to dispense a fixed product such as a cup of coffee, a candy bar, etc. The concept is to raise the cost of the item by physically barring two out of three possible coin slots and opening only one of them, depending on the time of the day. Thus, a penalty is imposed by raising the cost for the item that will be dispensed. Needless to say, the activation of gates and solenoids for barring the type of coin that can be entered into the machine, is certainly not present in either the *Takemoto et al.* nor the present invention.

As the Examiner is aware, the hard question is whether the combination is based upon hindsight from the present teaching rather than what would be obvious apart from the present teaching to a person of ordinary skill in this field.

As set forth in *In re Kahn*, 441 F.3d 977, 987-988 (Fed. Cir. 2006):

The motivation-suggestion-teaching test picks up where the analogous art test leaves off and informs the *Graham* analysis. [*Graham v. John Deere Co.*, 383 U.S. 1, 13-14 (1966).]

To reach a non-hindsight driven conclusion as to whether a person having ordinary skill in the art at the time of the invention would have viewed the subject matter as a whole to have been obvious in view of multiple

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references, the Board must provide some rationale, articulation, or reasoned basis to explain why the conclusion of obviousness is correct. The requirement of such an explanation is consistent with governing obviousness law. . . .

\* \* \*

A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as "the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. . . . The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." However, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be *some* articulated reasoning with *some* rational underpinning to support the legal conclusion of obviousness. This requirement is as much rooted in the Administrative Procedure Act [for our review of Board determinations], which ensures due process and non-arbitrary decisionmaking, as it is in §103.

As can be appreciated, the more that the cited references must be modified to meet the outstanding claims, the more likely that an unintended issue of hindsight may drive the rejection. This is particularly true for an Examiner who is attempting to provide a diligent effort to ensure that only patentable subject matter occurs. The difficult issue is to step back from the zeal of the examination process and to appreciate that the Patent Examiner has to wear both hats of advocating a position relative to the prior art, while at the same time objectively rendering in a judge-like manner, a decision on the patentability of the present claims.

Using the above test, it is readily apparent that neither *Moore* nor the *Takemoto et al.* reference contemplates the problems of the present invention, nor would they provide to a person of ordinary skill in the art, the problems the solution offered by the present invention. *Moore* teaches an issue of a time clock for penalizing workers by barring the purchase of the item with the smallest denomination of coin if the sale is beyond a break period. There is certainly no

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desire nor teaching to increase a purchase of a product by rewarding a user with a greater number of tokens on a particular day for use in a casino. As can be appreciated, Fridays, Saturdays and Sundays are the high usage time frames for most casinos. The present invention comes into play at alternate dates during a normal week (holidays would also generally be a high usage time period).

It is readily apparent that there must be some motivation or suggestion that would cause the hypothetical combination to arrive at our present invention. Both the *Takemoto et al.* and the *Moore* reference are completely devoid of any spark that would even hint at our present invention, unless hindsight is utilized.

The Office Action further relied upon various assumptions of what would be obvious to a person of ordinary skill in the art, such as a touch screen interface, audio speakers, coin dispensers, and the configuration of both a user interface and a display unit without the citation of any specific reference. As noted in MPEP §706.02(a), if an applicant traverses such an assertion, the Examiner should cite a reference in support of his or her position. In this regard, the principal reference relied upon demonstrates that there is no teaching or suggestion. Accordingly, the compatibility of any other reference that would be relied upon should be presented to the applicant if such a rejection is continued.

The Office Action further relied upon *Knox et al.* (U.S. Patent No. 6,659,259) to disclose that smart cards are known for use as a payment device. The *Knox et al.* reference, however, does not address the deficiencies nor supply the missing motivation or suggestion required under 35 U.S.C. §103 to reject our parent claims.

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Applicant has amended Claim 1 and provided new Claims 14-19 that are believed to more than adequately distinguish over any combination of the references of record.

For example, Claim 1 and new independent Claim 14 define the operation of the control unit consistent with a disclosure in the specification of Figures 6A-6C that implement the present invention. None of these features are taught in any of the references of record. Claim 1 further defines features associated with the touch screen unit, the display unit and the clock unit providing date and information that is not found in any of the references of record.

Finally, it is submitted that the dependent claims define features that have not been adequately addressed in the rejections to date, and add further novelty in a relatively competitive and technologically crowded field. The recent increase in the amount of gambling and gambling casinos has had a number of high tech companies attempting to provide advantageous features to take advantage of this marketplace, yet the prior art has not taught our invention.

It is submitted that the present invention should be allowed not only for the indicated allowed subject matter of Claims 3-11, but further for the features now set forth in amended Claim 1 and the newly drafted Claims 14-19.



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If the Examiner believes a telephone interview will help further the prosecution of this case, he is respectfully requested to contact the undersigned attorney at the listed phone number.

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO at 571-273-8300 on October 23, 2006.

Very truly yours,

SNELL & WILMER L.L.P.

By: Sharon Farnus

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Signature

Dated: October 23, 2006

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